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OFFICE OF PETITIONS

In re Patent No. 6,765,225 :
Hiroaki Yasuda : DECISION ON REQUEST
Application No. 09/986,152 : FOR RECONSIDERATION OF
Filed: November 7, 2001 : PATENT TERM ADJUSTMENT
Attorney Docket No. Q66868 : and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.705: REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed August 17, 2004. Patentee requests that the patent term adjustment be corrected from the two hundred twenty-one (221) days indicated in the Issue Notification (and on the patent) to three hundred fourteen (314) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred fourteen **(314)** days.

On July 20, 2004, the above-identified application matured into U.S. Patent No. 6,765,225. The instant request for reconsideration filed August 17, 2004 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 221 days. Citing 1247 OG 111, patentees state that the initial determination of patent term adjustment of 314 should not have been reduced by 93 days for submittal of a "miscellaneous paper" after the Notice of Allowance, as the only paper filed after the mailing of the Notice of Allowance was the Comments on Examiner's Reasons for Allowance.

Patentees' argument is well-taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). A review of the application record reveals that the reduction of 93 days was based on the filing after allowance of the filing of the "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE" filed April 19, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 93 days.

Furthermore, there were no other bases for reduction of the patent term adjustment.

In view thereof, the patent term adjustment indicated on the patent should have been three hundred fourteen **(314)** days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED FOURTEEN (314) days.

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Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
for

Karin Ferriter
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Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction